

UNITED STATES OF AMERICA  
UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

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ROBERT LEE LAZARUS,

Plaintiff,

Case No. 1:07-cv-524

v.

Honorable Wendell A. Miles

SUZANNE B. EISEN et al.,

Defendants.

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**ORDER FOR PARTIAL SERVICE**

In accordance with the Opinion filed this date:

IT IS ORDERED that Plaintiff's action against Defendants State of Michigan, Patricia Caruso, (unknown) Birkett, Calhoun County and Summit Point Community Mental Health is DISMISSED WITH PREJUDICE pursuant to 28 U.S.C. §§ 1915(e) and 1915A, and 42 U.S.C. § 1997e(c).

IT IS FURTHER ORDERED that in accordance with Administrative Order No. 03-029, the Clerk shall return to Plaintiff with a copy of this order one copy of the complaint and any exhibits.

IT IS FURTHER ORDERED that immediately upon receipt of this order, Plaintiff shall request that the prison make ten copies of the complaint and exhibits for service upon Defendants CMS, Eisen (ICF), Smith (ICF), Norwood (ICF), Gilkey (ICF), Bauer (SMF), Kemp (ICF), Patterson (ICF), Chaffen (ICF) and Badger (ICF).

IT IS FURTHER ORDERED that within fifteen business days of this order, Plaintiff shall file with the Court the requisite number of copies of the complaint and exhibits along with a copy of this order OR an affidavit explaining why Plaintiff is unable to provide the requested copies within the fifteen-day period. Should the Court find that the prison failed to make copies upon Plaintiff's request, the Court will direct the Clerk to make such copies as may be necessary and to charge the Michigan Department of Corrections for the cost of copying at the Court's usual rate of \$.50 per page.

IT IS FURTHER ORDERED that Plaintiff's failure to submit the requested copies within the time provided by the Court may result in the dismissal of his action without prejudice by the district judge.

IT IS FURTHER ORDERED that upon receipt of the copies required by this order, the Clerk shall arrange for service of summons and complaint, along with a copy of this order, upon Defendants.

IT IS FURTHER ORDERED that Defendants shall reply to the complaint after service in accordance with the following:

- (a) if a Defendant contends that the Plaintiff has failed to exhaust his administrative remedies as to one or more claims contained in the complaint, the alleged failure must be raised in a motion for summary judgment filed within thirty days after service of the complaint. *See* 42 U.S.C. § 1997e(g)(2). The failure to raise exhaustion as directed by this order may result in a waiver of the defense. **Any motion asserting the exhaustion defense must be limited to that issue only.** A Defendant asserting the exhaustion defense will have the opportunity to raise any other defense in a future motion or pleading; **or**

- (b) if a Defendant chooses not to raise the exhaustion defense, that Defendant shall reply to the complaint by way of answer, motion to dismiss, or motion for summary judgment within the time allowed by law. *See* 42 U.S.C. § 1997e(g)(1).

Dated: September 18, 2007

/s/ Wendell A. Miles

Wendell A. Miles

Senior United States District Judge